

AMENDED IN ASSEMBLY AUGUST 18, 2000

AMENDED IN ASSEMBLY JULY 3, 2000

AMENDED IN ASSEMBLY JUNE 15, 2000

AMENDED IN SENATE MAY 26, 2000

AMENDED IN SENATE MAY 1, 2000

SENATE BILL

No. 2029

Introduced by Senator Figueroa

February 25, 2000

~~An act to amend and repeal Section 7001 of, to amend, repeal, and add Sections 7003 and 7007 of, to amend, repeal, add, and repeal Section 7002 of, and to add and repeal Sections 7000.6, 7011.2, and 7021 of, the Business and Professions Code, An act to amend Sections 7001, 7002, 7003, 7007, 7011.7, 7065.05, and 7164 of, to amend and repeal Section 7000.5 of, to add Sections 7021 and 7159.3 to, and to add and repeal Section 7092 of, the Business and Professions Code, relating to contractors.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 2029, as amended, Figueroa. Contractors' State License Board.

(1) The Contractors' State License Law provides for the creation of the Contractors' State License Board with 13 members, ~~and provides for the appointment of a registrar of the board and various other administrative staff positions.~~ Under existing law, these and other related provisions will

become inoperative on July 1, 2001, and will be repealed on January 1, 2002.

This bill would require the board to conduct various studies and reviews, and to report to the Department of Consumer Affairs and the Legislature by ~~February~~ October 1, 2001. This bill would ~~create a new~~ increase the membership on the Contractors' State License Board ~~with~~ to 15 ~~members~~, as specified, ~~effective July 1, 2001~~, and would enact other related provisions. The provisions ~~creating the new board affecting the board's existence~~ would become inoperative on July 1, ~~2005~~ 2003.

~~This bill would become operative only if AB 2370 is enacted and becomes operative.~~

(2) Under existing law, the board, with the approval of the Director of Consumer Affairs, is required to appoint a registrar of contractors who, among other matters, is responsible for reviewing and investigating complaints regarding licensed contractors filed with the board.

This bill would require the board to establish as a goal, the improvement of its disciplinary system, as specified, and would require the director to appoint a Contractors' State License Board Enforcement Program Monitor no later than January 31, 2001, whose duties would include monitoring and evaluating the board's disciplinary system and reporting his or her findings, as specified, to the board, the Department of Consumer Affairs, and the Legislature. This bill would make the provisions that pertain to the enforcement program monitor inoperative on January 31, 2003.

(3) Existing law requires home construction contracts and home improvement contracts, as defined, to be in writing and to contain specified provisions.

This bill would additionally require those contracts to contain provisions pertaining to the general liability insurance coverage of the contractor party to those contracts.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 7000.6 is added to the Business and Professions Code, to read:~~

~~7000.6. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.~~

~~(b) The Contractors' State License Board created pursuant to this section shall retain the authority previously vested with the Contractors' State License Board created pursuant to Section 7000.5, prior to the repeal of that section, with respect to conducting all investigations, inquiries, and disciplinary actions or proceedings that were unresolved at the time that section was repealed, and the new board may enforce all disciplinary actions undertaken by the prior board.~~

~~(c) This section shall become operative on July 1, 2001.~~

~~(d) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

SECTION 1. Section 7000.5 of the Business and Professions Code is amended to read:

~~7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 13 15 members.~~

~~(b) The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board by the department shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.~~

~~(c) This section shall become inoperative on July 1, 2001 2003, and, as of January 1, 2002 2004, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002 2004, deletes or extends the dates on which it becomes inoperative and is repealed.~~

1 SEC. 2. Section 7001 of the Business and Professions
2 Code is amended to read:

3 7001. All members of the board, except the public
4 members, shall be contractors actively engaged in the
5 contracting business, have been so engaged for a period
6 of not less than five years preceding the date of their
7 appointment and shall so continue in the contracting
8 business during the term of their office. No one, except a
9 public member, shall be eligible for appointment who
10 does not at the time hold an unexpired license to operate
11 as a contractor.

12 The public members shall not be licentiates of the
13 board.

14 ~~This section shall become inoperative on July 1, 2001,~~
15 ~~and, as of January 1, 2002, is repealed, unless a later~~
16 ~~enacted statute, which becomes effective on or before~~
17 ~~January 1, 2002, deletes or extends the dates on which it~~
18 ~~becomes inoperative and is repealed.~~

19 SEC. 3. Section 7002 of the Business and Professions
20 Code is amended to read:

21 7002. (a) One member of the board shall be a general
22 engineering contractor, two members shall be general
23 building contractors, two members shall be specialty
24 contractors, one member shall be a member of a labor
25 organization representing the building trades, *one*
26 *member shall be an active local building official,* and
27 ~~seven~~ *eight* members shall be public members, one of
28 whom shall be ~~an active local building official.~~ *from a*
29 *statewide senior citizen organization.*

30 (b) *No public member shall be a current or former*
31 *licensee of the board or a close family member of a*
32 *licensee or be currently or formerly connected with the*
33 *construction industry or have any financial interest in the*
34 *business of a licensee of the board. Each public member*
35 *shall meet all of the requirements for public membership*
36 *on a board as set forth in Chapter 6 (commencing with*
37 *Section 450) of Division 1.*

38 (c) *Each contractor member of the board shall be of*
39 *recognized standing in his or her branch of the*
40 *contracting business and hold an unexpired license to*

1 *operate as a contractor. In addition, each contractor*
2 *member shall, as of the date of his or her appointment, be*
3 *actively engaged in the contracting business and have*
4 *been so engaged for a period of not less than five years.*
5 *Each contractor member shall remain actively engaged*
6 *in the contracting business during the entire term of his*
7 *or her membership on the board.*

8 *(d) Each member of the board shall be at least 30 years*
9 *of age and of good character. In addition, each member*
10 *shall have been a citizen and resident of the State of*
11 *California for at least five years next preceding his or her*
12 *appointment.*

13 *(e) For the purposes of construing this article, the*
14 *terms “general engineering contractor,” “general*
15 *building contractor,” and “specialty contractor” shall*
16 *have the meanings given in Article 4 (commencing with*
17 *Section 7055) of this chapter.*

18 ~~Each contractor member of the board shall be of~~
19 ~~recognized standing in his or her branch of the~~
20 ~~contracting business. Each member of the board shall be~~
21 ~~at least 30 years of age and of good character.~~

22 ~~Each member of the board shall have been a citizen~~
23 ~~and resident of the State of California for at least five years~~
24 ~~next preceding his or her appointment.~~

25 ~~This section shall become inoperative on July 1, 2001,~~
26 ~~and, as of January 1, 2002, is repealed, unless a later~~
27 ~~enacted statute, which becomes effective on or before~~
28 ~~January 1, 2002, deletes or extends the dates on which it~~
29 ~~becomes inoperative and is repealed.~~

30 ~~SEC. 4. Section 7002 is added to the Business and~~
31 ~~Professions Code, to read:~~

32 ~~7002. (a) One member of the board shall be a general~~
33 ~~engineering contractor, two members shall be general~~
34 ~~building contractors, two members shall be specialty~~
35 ~~contractors, one member shall be a member of a labor~~
36 ~~organization representing the building trades, one~~
37 ~~member shall be an active local building official, and~~
38 ~~eight members shall be public members.~~

39 ~~For the purposes of construing this article, the terms~~
40 ~~“general engineering contractor,” “general building~~

1 contractor,” and “specialty contractor” shall have the
2 meanings given in Article 4 (commencing with Section
3 7055).

4 Each contractor member of the board shall be of
5 recognized standing in his or her branch of the
6 contracting business, hold an unexpired license to
7 operate as a contractor, and be actively engaged in the
8 contracting business, have been so engaged for a period
9 of not less than five years preceding the date of his or her
10 appointment, and shall so continue in the contracting
11 business during the term of his or her office.

12 The public members shall not be current or past
13 licensees of the board, a close family member of a
14 licensee, formerly or currently connected with the
15 construction industry, or have any financial interest in the
16 business of a licensee of the board, and shall meet all other
17 requirements for public membership pursuant to
18 Chapter 6 (commencing with Section 450) of Division 1.

19 Each member of the board shall have been a citizen
20 and resident of the State of California for at least five years
21 next preceding his or her appointment.

22 (b) The Governor shall appoint all of the members to
23 the board other than two of its public members, one of
24 whom shall be appointed by the Senate Committee on
25 Rules, and the other shall be appointed by the Speaker of
26 the Assembly.

27 (c) Except for the initial appointments, all
28 appointments to this board shall be for a period of four
29 years. Of the initial appointments, two public members
30 and the general engineering contractor appointed by the
31 Governor shall each serve for a term of one year. The
32 public members appointed by the Senate Committee on
33 Rules and the Speaker of the Assembly shall each serve for
34 a term of two years. One of the specialty contractors and
35 the active local building official appointed by the
36 Governor shall each serve for a term of two years. Two of
37 the public members, one of the general building
38 contractors, and the member of a labor organization
39 representing the building trades appointed by the
40 Governor shall each serve a term of three years. The

1 ~~remaining two public members, the other general~~
2 ~~building contractor, and the other specialty contractor~~
3 ~~appointed by the Governor shall each serve for a term of~~
4 ~~four years.~~

5 ~~This section shall become operative on July 1, 2001.~~

6 ~~This section shall become inoperative on July 1, 2005,~~
7 ~~and as of January 1, 2006, is repealed, unless a later~~
8 ~~enacted statute, which becomes effective on or before~~
9 ~~January 1, 2006, deletes or extends the dates on which it~~
10 ~~becomes inoperative and is repealed.~~

11 ~~SEC. 5.~~

12 ~~SEC. 4.~~ Section 7003 of the Business and Professions
13 Code is amended to read:

14 7003. Except as otherwise provided, an appointment
15 to fill a vacancy caused by the expiration of the term of
16 office shall be for a term of four years and shall be filled,
17 except for a vacancy in the term of a public member, by
18 a member from the same branch of the contracting
19 business as was the branch of the member whose term has
20 expired. A vacancy in the term of a public member shall
21 be filled by another public member. Each member shall
22 hold office until the appointment and qualification of his
23 or her successor or until the office is deemed to be vacant
24 pursuant to Section 1774 of the Government Code,
25 whichever first occurs.

26 Vacancies occurring in the membership of the board
27 for any cause shall be filled by appointment for the
28 balance of the unexpired term.

29 No person shall serve as a member of the board for
30 more than two consecutive terms.

31 The Governor shall appoint ~~five~~ *four* of the public
32 members, including *the public member who is from a*
33 *statewide senior citizen organization*, the local building
34 official, *the member of a labor organization representing*
35 *the building trades*, and the ~~six~~ *five* contractor members
36 qualified as provided in Section 7002. The Senate Rules
37 Committee and the Speaker of the Assembly shall each
38 ~~appoint a public member.~~ *appoint two public members.*

39 ~~This section shall become inoperative on July 1, 2001,~~
40 ~~and, as of January 1, 2002, is repealed, unless a later~~

~~enacted statute, which becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 6. Section 7003 is added to the Business and Professions Code, to read:~~

~~7003. Except as otherwise provided, an appointment to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled, except for a vacancy in the term of a public member, by a member from the same branch of the contracting business as was the branch of the member whose term has expired. A vacancy in the term of a public member shall be filled by another public member. Each member shall hold office until the appointment and qualification of his or her successor or until the office is deemed to be vacant pursuant to Section 1774 of the Government Code, whichever first occurs.~~

~~Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.~~

~~No person shall serve as a member of the board for more than two consecutive terms.~~

~~The Governor shall appoint six of the public members and the seven members qualified as provided in Section 7002. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

~~Appointing powers may appoint members who previously served on the previous board.~~

~~This section shall become operative on July 1, 2001.~~

~~SEC. 7.~~

~~SEC. 5. Section 7007 of the Business and Professions Code is amended to read:~~

~~7007. *Seven* *Eight* members constitute a quorum at a board meeting.~~

~~Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the bylaws.~~

~~This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before~~

~~January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 8. Section 7007 is added to the Business and Professions Code, to read:~~

~~7007. Eight members shall constitute a quorum at a board meeting.~~

~~This section shall become operative on July 1, 2001.~~

~~SEC. 9. Section 7011.2 is added to the Business and Professions Code, to read:~~

~~7011.2. The board by and with the approval of the director shall appoint a registrar of contractors and fix his or her compensation.~~

~~The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.~~

~~For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer and, subject to Section 159.5, other assistants and subordinates as may be necessary.~~

~~Appointments shall be made in accordance with the provisions of civil service laws.~~

~~This section shall become operative on July 1, 2001.~~

~~This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 10.~~

~~SEC. 6. Section 7011.7 of the Business and Professions Code is amended to read:~~

~~7011.7. (a) The registrar shall review and investigate complaints filed in a manner consistent with this chapter and the Budget Act. It is the intent of the Legislature that complaints be reviewed and investigated as promptly as resources allow.~~

~~(b) The board shall set as a goal the improvement of its disciplinary system so that an average of no more than six months elapses from the receipt of a complaint to the completion of an investigation.~~

1 (c) *Notwithstanding subdivision (a), the goal for*
2 *completing the review and investigation of complaints*
3 *that, in the opinion of the board, involve complex fraud*
4 *issues or complex contractual arrangements, should be no*
5 *more than one year.*

6 SEC. 7. Section 7021 is added to the Business and
7 Professions Code, to read:

8 7021. The board shall conduct the following studies
9 and reviews, and shall report to the department and the
10 Legislature no later than ~~February~~ *October 1, 2001.*

11 (a) The board shall conduct a comprehensive study of
12 the issues surrounding home improvement contracts that
13 involve home equity lending fraud and scams, and
14 provide recommendations to deal with this problem.

15 (b) The board shall conduct a comprehensive study of
16 its reorganization (“reengineering”) plan to restructure
17 intake, mediation, and investigation services, and
18 evaluate the impact this effort has had on consumer and
19 industry access to board staff, its ability to reduce
20 timeframes for complaint processing and investigations,
21 increasing mediations, investigations, and legal actions,
22 productivity of staff, and overall costs to the board.

23 (c) The board shall conduct a comprehensive study
24 and review of recovery fund programs in California and
25 other states which provide compensation to consumers
26 for financial injury caused by a licensed professional. It
27 should evaluate the effectiveness of these programs and
28 whether such a recovery fund could benefit consumers
29 who are harmed as a result of contractor fraud, poor
30 workmanship, malfeasance, abandonment, failure to
31 perform, or other illegal acts.

32 (d) *The board shall conduct a comprehensive study in*
33 *consultation with the Department of Insurance, on the*
34 *use of surety bonds to compensate homeowners for*
35 *financial injury sustained as a result of a contractor’s*
36 *fraud, poor workmanship, malfeasance, abandonment,*
37 *failure to perform, or other illegal acts. This study shall*
38 *include consideration of the payout criteria of bonds,*
39 *increasing the bond amount, a “step-bonding” approach*
40 *based on the amount of the prime contract, and the*

1 requirement of performance or payment bonds. This
2 study shall additionally consider whether to require
3 contractors to carry general liability insurance and
4 whether to establish a guarantee program in order to
5 provide the appropriate insurance and bond coverage in
6 connection with a homeowner's employment of a
7 contractor.

8 (e) The board shall review its current disclosure policy
9 and provide recommended changes.

10 ~~This section shall become inoperative on July 1, 2001,~~
11 ~~and, as of January 1, 2002, is repealed.~~

12 ~~SEC. 11. This act shall become operative only if~~
13 ~~Assembly Bill 2370 of the 1999-2000 Regular Session is~~
14 ~~enacted and becomes operative.~~

15 SEC. 8. Section 7065.05 of the Business and
16 Professions Code is amended to read:

17 7065.05. (a) The board shall periodically review and,
18 if needed, revise the contents of qualifying examinations
19 to insure that the examination questions are timely and
20 relevant to the business of contracting. The board shall,
21 in addition, construct and conduct examinations in such
22 a manner as to preclude the possibility of any applicant
23 having prior knowledge of any specific examination
24 question.

25 (b) The board shall establish a priority list and
26 schedule for the completion of an occupational analysis of
27 its current examinations. The board shall complete this
28 analysis with respect to those examinations having the
29 highest and moderately high need for revision by July 1,
30 2001, and complete this analysis with respect to all
31 remaining examinations for revision by July 1, 2002.

32 SEC. 9. Section 7092 is added to the Business and
33 Professions Code, to read:

34 7092. (a) (1) The director shall appoint a
35 Contractors' State License Board Enforcement Program
36 Monitor no later than January 31, 2001. The director may
37 retain a person for this position by a personal services
38 contract, the Legislature finding, pursuant to Section
39 19130 of the Government Code, that this is a new state
40 function.

1 (2) The director shall supervise the enforcement
2 program monitor and may terminate or dismiss him or
3 her from this position.

4 (b) The director shall advertise the availability of this
5 position. The requirements for this position include
6 experience in conducting investigations and familiarity
7 with state laws, rules, and procedures pertaining to the
8 board and familiarity with relevant administrative
9 procedures.

10 (c) (1) The enforcement program monitor shall
11 monitor and evaluate the Contractors' State License
12 Board discipline system and procedures, making as his or
13 her highest priority the reform and reengineering of the
14 board's enforcement program and operations, and the
15 improvement of the overall efficiency of the board's
16 disciplinary system.

17 (2) This monitoring duty shall be on a continuing basis
18 for a period of no more than two years from the date of
19 the enforcement program monitor's appointment and
20 shall include, but not be limited to, improving the quality
21 and consistency of complaint processing and
22 investigation and reducing the timeframes for each,
23 reducing any complaint backlog, assuring consistency in
24 the application of sanctions or discipline imposed on
25 licensees, and shall include the following areas: the
26 accurate and consistent implementation of the laws and
27 rules affecting discipline, staff concerns regarding
28 disciplinary matters or procedures, appropriate
29 utilization of licensed professionals to investigate
30 complaints, the board's cooperation with other
31 governmental entities charged with enforcing related
32 laws and regulations regarding contractors.

33 (3) The enforcement program monitor shall exercise
34 no authority over the board's discipline operations or
35 staff; however, the board and its staff shall cooperate with
36 him or her, and the board shall provide data, information,
37 and case files as requested by the enforcement program
38 monitor to perform all of his or her duties.

39 (4) The director shall assist the enforcement program
40 monitor in the performance of his or her duties, and the

1 enforcement program monitor shall have the same
2 investigative authority as the director.

3 (d) The enforcement program monitor shall submit
4 an initial written report of his or her findings and
5 conclusions to the board, the department, and the
6 Legislature no later than August 1, 2001, and every six
7 months thereafter, and be available to make oral reports
8 to each, if requested to do so. The enforcement program
9 monitor may also provide additional information to either
10 the department or the Legislature at his or her discretion
11 or at the request of either the department or the
12 Legislature. The enforcement monitor shall make his or
13 her reports available to the public or the media. The
14 enforcement program monitor shall make every effort to
15 provide the board with an opportunity to reply to any
16 facts, findings, issues, or conclusions in his or her reports
17 with which the board may disagree.

18 (e) The board shall reimburse the department for all
19 of the costs associated with the employment of an
20 enforcement program monitor.

21 (f) This section shall remain in effect only until
22 January 31, 2003, and as of that date is repealed, unless a
23 later enacted statute, that is enacted before January 31,
24 2003, deletes or extends that date.

25 SEC. 10. Section 7159.3 is added to the Business and
26 Professions Code, to read:

27 7159.3. A home improvement contract shall be
28 accompanied by and include all of the following:

29 (a) A statement prepared by the board through
30 regulation that emphasizes the value of commercial
31 general liability insurance and encourages the owner or
32 tenant to verify the contractor's insurance coverage and
33 status.

34 (b) A check box indicating whether or not the
35 contractor carries commercial general liability insurance,
36 and if that is the case, the name and the telephone
37 number of the insurer.

38 (c) A checklist prepared by the board through
39 regulation setting forth the items that an owner
40 contracting for home improvement should consider

1 *when reviewing a proposed home improvement*
2 *contract.*

3 *SEC. 11. Section 7164 of the Business and Professions*
4 *Code is amended to read:*

5 7164. (a) Notwithstanding Section 7044, every
6 contract and any changes in a contract, between an
7 owner and a contractor, for the construction of a
8 single-family dwelling to be retained by the owner for at
9 least one year shall be evidenced in writing signed by
10 both parties.

11 (b) The writing shall contain the following:

12 (1) The name, address, and license number of the
13 contractor.

14 (2) The approximate dates when the work will begin
15 and be substantially completed.

16 (3) A legal description of the location where the work
17 will be done.

18 (4) The language of the notice required pursuant to
19 Section 7018.5.

20 (5) (A) *A statement prepared by the board through*
21 *regulation that emphasizes the value of commercial*
22 *general liability insurance and encourages the owner to*
23 *verify the contractor's insurance coverage and status.*

24 (B) *A check box indicating whether or not the*
25 *contractor carries commercial general liability insurance,*
26 *and if that is the case, the name and the telephone*
27 *number of the insurer.*

28 (c) The writing may also contain other matters agreed
29 to by the parties to the contract. The writing shall be
30 legible and shall clearly describe any other document
31 which is to be incorporated into the contract. Prior to
32 commencement of any work, the owner shall be
33 furnished a copy of the written agreement, signed by the
34 contractor. The provisions of this section are not exclusive
35 and do not relieve the contractor from compliance with
36 all other applicable provisions of law.

37 ~~(e)~~

38 (d) Every contract subject to the provisions of this
39 section shall contain, in close proximity to the signatures
40 of the owner and contractor, a notice in at least 10-point

1 bold type or in all capital letters, stating that the owner
2 has the right to require the contractor to have a
3 performance and payment bond and that the expense of
4 the bond may be borne by the owner.

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